

REMARKS

This Response is submitted in reply to the Office Action dated August 26, 2003. Claims 12-29 are pending in the patent application. Claims 18 and 24 have been amended for clarification purposes and not for any reasons of patentability. Additionally, the Patent Office has acknowledged that claims 18-23 are directed to allowable subject matter. A Request for Continued Examination (RCE) and a Petition for a five month extension of time have been submitted herewith. Applicants respectfully submit, for the reasons set forth below, that the rejections have been overcome or are improper. Accordingly, Applicants respectfully request reconsideration of the patentability of claims 12-17 and 24-29.

Claim 12 is objected to under 37 CFR §1.75. Claim 18 was objected as to an informality. Claims 18-23 were allowed. Claims 12-14 and 24-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,685,000 to Cox, Jr. ("Cox Jr.") in view of U.S. Patent No. 5,758,257A to Herz et al. ("Herz"). Additionally, claims 15-16 and 27-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Cox Jr.* in view of U.S. Patent No. 5,916,024 A2 Von Kohorn ("Von Kohorn"). Moreover, claims 17 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Cox Jr.* in view of U.S. Patent No. 6,477,509 B1 to Hammons et al. ("Hammons").

As a preliminary matter, claim 12 was objected to under 37 C.F.R. § 1.75 as being a substantial duplicate of claim 24. Applicants have amended claim 24 to distinguish claim 24 from claim 12. Therefore, Applicants respectfully submit that the objection of claim 12 is now moot.

As another preliminary matter, the Patent Office stated that the term "time" in claim 18 was unclear. Applicants have amended claim 18 to clarify that the claim is referring to a length of time. Accordingly, Applicants respectfully submit that claim 18 is now in condition for allowance.

Claims 12-14 and 24-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable or *Cox Jr.* in view of *Herz*. Applicants respectfully submit that the combination of *Cox Jr.* and *Herz* does not disclose, teach or suggest all of the elements of claims 12-14 and 24-26.

A person of ordinary skill in art would not be motivated to combine *Cox Jr.* and *Herz* where there is no teaching or suggestion in either reference to make such a combination. *Cox Jr.*

is directed to method for providing a linguistically competent dialogue with a computerized service representative. The method initially models a desired task as a plurality of database slots. (See, column 1, lines 43 to 56). Each user utterance or speech causes the database slots to be filled with recognized values. Subsequently, a responsive utterance is generated according to a predetermined set of condition-action rules which are based on the combinations of the filled slot values.

Herz is directed to a system and method for scheduling broadcast of an access to video programs and other data using customer profiles. Specifically, *Herz* is directed to a customer profile system in which characteristics of a data source are quantified in some manner and stored as content profiles and the customer's preferences for the characteristics are stored in the form of one or more customer profiles. (See, column 9, lines 30 to 36). In one embodiment, the content profile is determined using questionnaires completed by a panel or group of experts or customers who determine the content of all video programming available for a broadcast. (See, column 13, lines 12 to 15). The profiles of those who liked the program would then be combined to create the initial profile for that program. Alternatively, in another embodiment, the content profiles of a program is determined automatically from the "word frequency of certain words" in the text or on-line description of a program or the frequency of certain words in the closed captions of a television show where the words are chosen as representative of certain categories. The content profiles, therefore, establish the particular content of a particular video program based on the frequency of certain subject matter such as words used with that program. This concept is similar to "metatags" used on websites on the internet. The metatags are the words or phrases associated with a website that are used to direct a user to that website when one or more search terms are entered in a search engine by the user.

Herz does not disclose, teach or suggest using a speech recognition device or enabling a user to enter profile information using a speech recognition device or other similar device. Also, *Herz* does not disclose, teach or suggest determining a topic of interest by a customer based on the number of times that topic is included in the speech of the customer. Instead, *Herz* discloses matching a content profile which describes the information included on a particular video program with information about a particular customer, which is included in the customer profile, to determine which video programs the customer is interested in. *Herz* does not disclose, teach

or suggest enabling the customer to input information that determines a particular video program to display to the customer based on the number of times a particular topic is included in the information inputted by the customer.

Accordingly, a person of ordinary skill in art would not combine the method for providing a linguistically competent dialog with a computerized serve representative of *Cox Jr.* with the system and method for scheduling broadcast of video programs to customers where neither *Cox Jr.* nor *Herz* discloses or teaches any reasons for such a combination.

Even if *Cox Jr.* and *Herz* were combined, neither reference when taken alone or in combination, disclose, teach or suggest the elements of the claimed invention. As described above, *Cox Jr.* describes a method for providing linguistically competent dialogue with a computerized service representative which recognizes utterances or speech by a user and responds with dialog based on those utterances or speech. However, as stated by the Patent Office, *Cox Jr.* does not teach a "matter of accounting or statistical operations" such as counting the number of times the topic appears or is mentioned in a speech of a user. (See the Office Action, page 6, lines 16 to 23). The Patent Office, therefore, relies on *Herz* to remedy the deficiencies of *Cox Jr.*

As described above, *Herz* discloses a system and method for scheduling broadcast of and access to video programs and other data using customer profiles. The system matches customer profiles with content profiles for the video programs to determine what programs a customer has interest in. *Herz* does not disclose, teach or suggest a speech recognition device for use by the customer or searching for a video program based on the number of times or appearances of a particular topic inputted by the customer.

The Patent Office states that *Herz* discloses the feature that counts a number of times that a topic appears in a speech recognition result. Specifically, the Patent Office refers to column 13, lines 29 to 36 of *Herz*. This section of *Herz*, however, does not disclose, teach or suggest searching for a particular topic based on the number of times that a topic is inputted or included in the speech of a user. Instead, *Herz* describes generating a content profile for a video program which is based on the frequency of certain words included in the text or on-line description of the program or the frequency of certain words in the closed captions of the program. (See, column 13, lines 29 to 38). Thus, *Herz* is describing the establishment of a content profile for a video

program which enables the system to match that program with a customer profile including the interest of the customer in order to set up a schedule or broadcast of the video programs. *Herz* does not disclose, teach or suggest using the frequency of particular words or topics in the user's speech or even any words or terms entered by the user to search for one or more of the video programs.

Accordingly, the combination of *Cox Jr.* and *Herz* does not disclose, teach or suggest the elements of the claimed invention. Therefore, claims 12 and 24 and claims 13 to 14 and 25 to 26, which depend from claims 12 and 24, respectively, are each patentably distinguished from the combination of *Cox Jr.* and *Herz* and are in condition for allowance.

Claims 15-16 and 27 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cox Jr.* in view of *Von Kohorn*. Claims 15 and 16 depend from claim 12 and claims 27 to 28 depend from claim 24. Therefore, Applicants respectfully submit that claims 15 to 16 and 27 to 28 are allowable for at the reasons set for above with respect to independent claims 12 and 24 because the combination of *Cox Jr.* and *Von Kohorn* does not disclose, teach or suggest the novel elements of claims 15 to 16 and 27 to 28 in combination with the novel elements of independent claims 12 and 24, respectively. For these reasons, claims 15 to 16 and 27 to 28 are patentably distinguished over the combination of *Cox Jr.* and *Von Kohorn* and are in condition for allowance.

Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cox Jr.* in view of *Hammons*. Claims 17 and 29 depend from independent claims 12 and 24, respectively. Therefore, Applicants respectfully submit that claims 17 and 29 are allowable for at least the reasons set forth above with respect to independent claims 12 and 24 because the combination of *Cox Jr.* and *Hammons* does not disclose, teach or suggest the novel elements of claims 17 and 29 in combination with the novel elements of independent claims 12 and 24, respectively. For these reasons, claims 17 and 29 are patentably distinguished over the combination of *Cox Jr.* and *Hammons* and are in condition for allowance.

Claims 18-23 have been deemed allowable. Therefore, Applicants respectfully submit that for the above reasons, claims 12-17 and 24-29 are allowable and non-obvious over the art of record and respectfully solicit an early allowance of these claims.

A check in the amount of \$950 has been submitted herewith to cover the cost of a three-month extension of time. In addition, a separate check in the amount of \$770 has been submitted herewith to cover the cost of the RCE. If any other fees are due in connection with this application as a whole, the Patent Office is authorized to deduct such fees from deposit account 02-1818. If such a withdrawal is made, please indicate the attorney docket number (112857-246) on the account statement.

Respectfully submitted,

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